UNITED STATES DISTRICT COURT

DISTRICT OF NEBRASKA

BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA and UNEMED CORPORATION, Plaintiffs, v. SIEMENS HEALTHCARE DIAGNOSTICS INC., Defendant.	No.: 09-CV-03075-RGK-CRZ

SIEMENS HEALTHCARE DIAGNOSTICS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT OF NON-INFRINGEMENT OF U.S. PATENT NO. 5,985,670 AND REQUEST FOR ORAL ARGUMENT UNDER NECIVR 7.1(D)

Defendant Siemens Healthcare Diagnostics, Inc. ("Siemens") hereby moves for partial summary judgment of non-infringement of U.S. Patent No. 5,985,670 ("the '670 patent"). This Motion is brought on the basis that the accused product, the Siemens' StreamLAB Analytical Workcell ("the StreamLAB system"), does not infringe, literally or under the doctrine of equivalents, any of the claims of the '670 patent because the StreamLAB system does not practice, literally or by equivalents, the step of marking the first carrier "with the same machine readable code as said first container," which step is incorporated into each and every claim of the '670 patent. This Motion is also made on the basis that Plaintiffs' doctrine of equivalents infringement theory is legally barred by prosecution history estoppel and the disclosure-dedication rule and is otherwise improper as a matter of law because it would result in vitiation of the "same machine readable code" limitation.

This Motion is based on this Motion, the accompanying Memorandum of Points and Authorities in support of the Motion, the accompanying Index of Evidence, including the

Declaration of Adaline J. Hilgard with Exhibits and the Declaration of Kerry Miller with Exhibits, the file and record in this case and whatever additional arguments are presented at the oral argument that Siemens requests pursuant to NECivR 7.1(d). Pursuant to that rule, Siemens states that oral argument is necessary because this matter presents complicated, important issues that can be addressed and further explained in oral argument. Siemens estimates that the oral argument would take no more than one hour.

DATED this 11th day of June, 2010.

/s/ John P. Bovich

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CERTIFICATE OF SERVICE

This certifies the undersigned attorney filed this document with the Court using the CM/ECF system, which caused service to be made on the following attorneys on this 11th day of June, 2010

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